



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[DA 14-1892]

Open Video System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Office of the Managing Director (OMD) makes nonsubstantive, editorial revisions to correct outdated cross-references in the Federal Communications Commission's Open Video System (OVS) rules.

DATES: Effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Diana Sokolow, Diana.Sokolow@fcc.gov, of the Policy Division, Media Bureau, (202) 418-2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Office of the Managing Director's Order, DA 14-1892, adopted and released on December 23, 2014. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. This document will also be available via ECFS at <http://fjallfoss.fcc.gov/ecfs/>. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. The complete text may be purchased from the Commission's copy contractor, 445 12th Street,

SW, Room CY-B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an e-mail to fcc504@fcc.gov or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

This document does not contain new or modified information collection(s) subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4). The Commission will file a nonsubstantive modification to the information collection that contains §§ 76.1601, 76.1607, 76.1617, and 76.1708 (OMB 3060-0649).

Synopsis

I. Discussion

1. By this Order, the Office of the Managing Director (OMD) makes nonsubstantive, editorial revisions to correct outdated cross-references in the Federal Communications Commission's open video system (OVS) rules. These nonsubstantive revisions are part of the Commission's ongoing examination and improvement of its processes and procedures. Specifically, § 76.1506(g) of the Commission's rules applies to OVS operators the cable operator notification requirements contained in § 76.58.¹ While § 76.58 contained those notification requirements when § 76.1506(g) was

¹ 47 CFR 76.1506(g).

adopted,² in 1999 the Commission deleted § 76.58 and moved its contents to new sections of the Code of Federal Regulations (CFR) with the minor modifications discussed below.³ Accordingly, in this Order we correct the outdated cross-references in § 76.1506(g).

2. These revisions update references to obsolete rule sections. Accordingly, we find good cause to conclude that notice and comment procedures are unnecessary and would not serve any useful purpose.⁴ The Commission's rules provide its Managing Director, or his or her designee, with "delegated authority to make nonsubstantive, editorial revisions of the Commission's rules and regulations upon approval of the bureau or staff office primarily responsible for the particular part or section involved."⁵

Updating the cross-references in § 76.1506(g) is a nonsubstantive change, and the Media Bureau has approved the corrections made herein.

3. Upon the deletion of § 76.58 of the Commission's rules in 1999, the Commission moved the contents of § 76.58(a) to § 76.1601.⁶ The Commission also moved the contents of § 76.58(b), (d) and (e) to § 76.1617.⁷ Further, the Commission

² See Open Video Systems, 61 FR 28698 (June 5, 1996).

³ See 1998 Biennial Regulatory Review – Streamlining of Cable Television Services, part 76 Public File and Notice Requirements, Report and Order, 14 FCC Rcd 4653 (1999) (1998 Biennial Review Order). Appendix D of the 1998 Biennial Review Order contains a list of the new regulations and the sections from which the new regulations were moved.

⁴ See 5 U.S.C. 553(b)(3)(B).

⁵ 47 CFR 0.231(b).

⁶ See 47 CFR 76.1601.

⁷ In 1999, the Commission decided that the references to the 1993 notification requirements contained in § 76.58 were outdated and, thus, replaced those references with more general language, a 60 day notification requirement, when it moved the contents of § 76.58(b), (d) and (e) into new § 76.1617. See 47 CFR 76.1617; 1998 Biennial Review Order, 14 FCC Rcd at Appendix C. The 1998 Biennial Review Order contained a discussion of the replacement of the 1993 dates with the new 60-day notification requirements, and while the text referenced these requirements as appearing in new § 76.1619, an erratum indicated that they actually appear in § 76.1617. 1998 Biennial Review Order, 14 FCC Rcd at 4667, paras. 28-29; Erratum, 1999 WL 163015, at Appendix C (Mar. 26, 1999).

moved the contents of § 76.58(c) to § 76.1607 and part of § 76.1708(a).⁸ Additionally, the Commission moved the note to § 76.58 to § 76.1601.⁹ However, § 76.1506(g) continues to cross-reference deleted § 76.58.

4. We revise § 76.1506(g) of the Commission’s rules to eliminate cross-references to deleted § 76.58 and replace those references with the updated cable rule sections. We need not revise FCC Form 1275, Certification for Open Video Systems, because that form does not mention deleted § 76.58. In addition, to make § 76.1506(g) easier to read now that it will cross-reference multiple rule sections instead of a single rule section, we make editorial revisions by merging the three former sentences into a single sentence. Section 76.1506(g) will now read, “Any provision of §§ 76.1601, 76.1607, 76.1617, or 76.1708(a) (second sentence) that refers to a ‘cable operator,’ ‘cable system,’ or ‘principal headend’ shall apply, respectively, to an open video system operator, to an open video system, or to the equivalent of the principal headend for an open video system.” The corrections discussed herein are nonsubstantive, editorial revisions that the Media Bureau has approved, and OMD thus has authority to implement them pursuant to § 0.231(b).¹⁰

II. PROCEDURAL MATTERS

A. Regulatory Flexibility Act

5. Because we adopt this Order without notice and comment, the Regulatory

⁸ See 47 CFR 76.1607 and 76.1708(a).

⁹ See Note 1 to § 76.1601.

¹⁰ See 47 CFR 0.231(b). In addition, we note that the Communications Act of 1934, as amended (Act), directs the Commission to apply to OVS operators certain provisions that apply to cable operators. See 47 U.S.C. 573(c).

Flexibility Act (RFA) does not apply.¹¹

B. Final Paperwork Reduction Act of 1995 Analysis

6. The Order does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4). The Commission will file a nonsubstantive modification to the information collection that contains §§ 76.1601, 76.1607, 76.1617, and 76.1708 (OMB 3060-0649).

C. Congressional Review Act

7. The Commission will send a copy of the Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

D. Additional Information

8. For additional information on this proceeding, contact Diana Sokolow, Diana.Sokolow@fcc.gov, of the Policy Division, Media Bureau, (202) 418-2120.

III. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED** that, pursuant to the authority found in sections 4(i), 4(j), 303(r), and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), and 573, and § 0.231(b) of the Commission’s rules, 47 CFR 0.231(b), this Order **IS ADOPTED**, effective thirty (30) days after the date of publication in the Federal Register.

¹¹ See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 et seq., has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104-121, Title II, 110 Stat. 857 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

10. **IT IS ORDERED** that, pursuant to the authority found in sections 4(i), 4(j), 303(r), and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), and 573, and § 0.231(b) of the Commission's rules, 47 CFR 0.231(b), the Commission's rules **ARE HEREBY AMENDED** as set forth in the Final Rules below.

11. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, **SHALL SEND** a copy of this Order to the Chief Counsel for Advocacy of the Small Business Administration.

12. **IT IS FURTHER ORDERED** that the Commission **SHALL SEND** a copy of this Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 76

Administrative practice and procedure, Cable television, Equal employment opportunity, Political candidates, Reporting and recordkeeping requirements.

FEDERAL COMMUNICATIONS COMMISSION

Jon Wilkins,

Managing Director.

Final rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

PART 76 – MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Amend § 76.1506 by revising paragraph (g) to read as follows:

§ 76.1506 Carriage of television broadcast signals.

* * * * *

(g) Notification. Any provision of §§ 76.1601, 76.1607, 76.1617, or 76.1708(a) (second sentence) that refers to a “cable operator,” “cable system,” or “principal headend” shall apply, respectively, to an open video system operator, to an open video system, or to the equivalent of the principal headend for an open video system.

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